IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11434 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LALBHAI R. PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11434 of 2004

MR AN PATEL for Petitioner No. 1

MR SIRAJ GORI, Ld. AGP for Respondent No. 1

MR PK JANI for Respondent No. 2-3

MR RC JANI for Respondent No. 4-6

DS AFF.NOT FILED (N) for Respondent No. 7-8

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 27/09/2004

ORAL JUDGEMENT

Notice was issued for the final disposal. The matter is today heard finally.

2. The only question which is required to be considered by the Court is whether it would be necessary to implead all the parties to the proceedings before the lower Authority at the time when revision is to be heard or to be preferred by the person aggrieved by the order.

3. The short facts appear to be that the District Collector in the proceedings of RTS under Section 108(6) of the Land Revenue Rules upon the application of the State Government through Surpanch of Nagalpur Society Vistar Gram Panchayat, Taluka Mehsana passed an order dated 9.8.2004, whereby certain directions were given for taking action against the Gram Panchayat for granting construction permission, for taking action against Dy. Mamlatdar and Talati in certifying the mutations and for taking actions against the other Officers for cheating and forging bogus documents. Respondent Nos.2 and 3 being aggrieved by the said order passed by the Collector, have preferred Revision before the State Government being Revision Application No.34/2000 and in the proceedings of the said revision District Collector, Nagalpur Gram Panchayat, Mamlatdar and Mahendrakumar Narsinhbhai Patel were impleaded as parties. However, the other parties to the proceedings namely; Ambalal Haribhai Patel, Shardaben Revabhai Patel, Jayantibhai Haribhai Patel and Maniben Naranbhai Patel, who are respondents No.4, 5, 6, and 7 herein and who were Opponents No.3, 4, 5 and 7 before the District Collector were not impleaded as party in the revisional proceedings. The petitioner herein, who is one of the parties in the revision before the State Government submitted an application on 6.9.2004 praying the Secretary of the State Government to implead the aforesaid four respondents who are respondents No.4 to 7 as parties to the proceedings and it was prayed that the notice may be issued upon them and hearing be made of revision only thereafter. It appears that the Secretary of the State Government rejected the said application and under the circumstances the petitioner has approached this Court by preferring this petition.

4. I have heard the learned Counsel appearing for the parties.

5. Mr.P.K.Jani, learned Counsel appearing for respondents No.2 and 3 have no objection if the application of the petitioner before the Secretary to

implead respondents No.4 to 7 is allowed or this Court gives directions to the State Government to implead respondents No.4 to 7 as party respondents.

6. However, Mr.R.C.Jani, learned Counsel appearing for respondents No.4 to 7 has resisted the petition by contending that as such the respondents No.4 to 7 had preferred SCA No.11480/2004 before this Court directly for challenging the order dated 9.8.2004 passed by the District Collector, which is also the subject matter of the revision preferred by respondents No.2 and 3. Mr.R.C. Jani submitted that in the said SCA, this Court on 10-9-2004 permitted the withdrawal of the said SCA with a view to prefer revision before the State Government and he submitted that thereafter the revision is already preferred by those petitioners namely respondents No.4 to 7 herein before the State Government and, therefore, he submitted that when the separate revision is already preferred by respondents No.4 to 7 herein, it is not necessary to implead them as party to the proceedings in the revision preferred by respondents No.2 and 3 in respect of which grievance is raised by the petitioner.

7. In my view, it appears that the contention raised on behalf of respondents No.4 to 7 cannot be sustained at all, because when any matter is carried before the Higher Forum by way of revision, as such it is obligatory for the person who prefers the revision to implead all the other parties to the proceedings, because any order which may be passed in revision may directly or indirectly affect the other parties to the proceedings and in any case, in absence of such parties, the revision cannot be finally decided. As such, it is the procedure required and even for the purpose of observing principles of natural justice, they are necessary and proper parties. Merely because some of the respondents have preferred separate revision for challenging the order which may be adversely affecting them and merely because such revision is pending, would not be a ground for dispensing with the requirement of law to implead all parties who are there on record before the lower authority to be impleaded, in the proceedings of the revision. Such position of law and procedure is well settled and no further discussion is required on the said aspect. The respondents No.4 to 7, who have preferred separate revision may pursue their case in the revision or they may request the State Government to consolidate the revisional proceedings is a different matter but that would not be a sufficient ground for dispensing with the requirement to implead respondents No.4 to 7 as party to the proceedings in the

revision which is preferred by the respondents No.2 and 3.

8. Under the above circumstances, the order passed by the State Government of rejecting the application of the petitioners is quashed and set aside and it is directed that respondents No.4 to 7 herein, who were Opponents No.3, 4, 5, and 7 in the proceedings before the District Collector, are ordered to be impleaded as party to the proceedings in the revision preferred by the respondents No.2 and 3 herein.

9. The petition is allowed to the aforesaid extent. Rule made absolutely accordingly. I.R., shall stand vacated. Considering the facts and circumstances, there shall be no order as to costs.

27.9.2004 (Jayant Patel, J.)

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